Supreme Court, U.S.
FILED
SEP 9 1993
OFFICE OF THE CLERK

No. 93-211

In The

Supreme Court of the United States

October Term, 1993

ALIMADAD JATOI,

Petitioner,

vs.

WILLIAM C. MEIER,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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4191
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No. 93-211

In The

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ALIMADAD JATOI,

Petitioner,

vs.

WILLIAM C. MEIER,

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On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondent William C. Meier files this Brief in Opposition to the Petition for Writ of Certiorari in this matter.

CORRECTIONS OF ERRORS IN THE STATEMENT OF THE CASE

The proceedings pending involving these parties in the United States Bankruptcy Court on December 19, 1989 were:

1. Disclosure Statement and Plan of Reorganization of Debtor, Alimadad Jatoi;

2. Objection to Disclosure Statement [Docket No. 228; R. Vol. 1, p. 74];

3. Objection to Debtor's Plan of Reorganization by William C. Meier [Docket No. 237; R. Vol. 1, p. 89];

4. Objection of Debtor to Claim of William C. Meier [Docket No. 239; R. Vol. 1, p. 103];

5. Motion of Debtor for Fees of William C. Meier to Be Disgorged [Docket No. 240; R. Vol. 1, p. 117];

6. Response of William C. Meier to Motion for Fees to Be Disgorged [Docket No. 245; R. Vol. 1, p. 123];

7. Motion of William C. Meier to Withdraw as Counsel of Record and Require Debtor to Pay Attorney's Fees [Docket No. 246; R. Vol. 1, p. 161];

8. Response of William C. Meier to Objection to Claim [Docket No. 247; R. Vol. 1, p. 167].

All of these proceedings were the subject of a Hearing on Confirmation and Motion for Fees of William C. Meier to Be Disgorged and Objection to Claim of William C. Meier which was held in open court on December 19, 1989. [*See* transcript of hearing, Docket No. 262; R. Vol. 4, p. 1.] At that hearing, Alimadad Jatoi, Debtor, appeared personally and by and through his attorney of record, Mr. Joe B. Abbey, 1717 Main Street, Suite 220, Dallas, Texas.

At the conclusion of the hearing, the Bankruptcy Court announced:

> "All right. The objections by the Debtor to the claim of Mr. Meier are overruled, and that claim is allowed. Mr. Meier's objection to the Plan will be sustained. And the Debtor's motion for Mr. Meier's fees to be disgorged is overruled."

[R. Vol. 4, p. 30, lines 13-19.]

The fees approved were $41,261 in pre-petition attorney's fees, and $14,962.07 in post-petition attorney's fees and expenses. [Motion to Enter Separate Order is attached in Appendix A, *infra* at 1a-10a. Nunc Pro Tunc Order of the Honorable Massie Tillman, United States Bankruptcy Judge dated December 16, 1991 is attached in the Appendix B, *infra* at 11a-12a.]

Contrary to the statement in the Petition for Writ of Certiorari on page 4, William C. Meier received a notice from the office of Nancy Doherty, Clerk of the Court, United States District Court for the Northern District of Texas, dated July 1, 1992 advising of an appeal number being assigned to the Bankruptcy case. That letter showed to have been mailed also to Michael D. Mosher, a prior counsel for Debtor, Alimadad Jatoi. [*See* letter dated July 1, 1992 from United States District Court Clerk Nancy Doherty attached in the Appendix C at 13a.]

No bond for stay of execution of judgment pending appeal secured by Certificates of Deposit is currently applicable to this proceeding as stated on page 22 of the Petition for Writ of Certiorari.

The Bond for Stay of Execution of Judgment Pending Appeal

applied only to an appeal to the United States District Court for the Northern District of Texas, Fort Worth Division. No application for supersedeas bond was filed with the United States Supreme Court. A Writ of Execution was served by the United States Marshal and the security posted for the supersedeas bond in the amount of $56,223.07 collected and delivered by the United States Marshal to William C. Meier.

On September 3, 1993, William C. Meier received a notice mailed on September 1, 1993 in San Antonio, Texas, that Alimadad Jatoi had filed an additional case under Chapter 11 of the Bankruptcy Code on August 25, 1993. [*See* Appendix D at 15a.]

REASONS FOR DENYING THE WRIT

I.

THE ISSUE OF THE AUTOMATIC STAY

On August 4, 1987, Alimadad Jatoi initiated the Chapter 11 Bankruptcy out of which this appeal arises. Alimadad Jatoi is the party advocating appeal. Alimadad Jatoi's current Petition for Writ of Certiorari is a continuation of a judicial proceeding that was initiated by the Debtor, Alimadad Jatoi, and is not "against the Debtor" as required in the applicable section of the Bankruptcy Code, 11 U.S.C. § 362(a)(1). *Freeman v. Commissioner of Internal Revenue*, 799 F.2d 1091 (5th Cir. 1986). Accordingly, the automatic stay in the August 25, 1993 case does not apply to this appellate case.

II.

NO GROUNDS EXIST FOR GRANTING THE WRIT OF CERTIORARI.

The United States Court of Appeals for the Fifth Circuit correctly reviewed Alimadad Jatoi's claims in its Case No. 92-1750, considering properly the standard of review as announced in the case of *Pyramid Mobile Homes, Inc. v. Speake,* 531 F.2d 743 (5th Cir. 1976) as calling for reversal in this case only in the event of a finding of a clear abuse of discretion on the part of the District Court in dismissing Alimadad Jatoi's appeal.

The familiarity of the District Court with this case is underscored and highlighted by an Order of the Court signed November 16, 1992. [*See* Appendix E at 18a.]

The tactics undertaken by Alimadad Jatoi in this case amounted to the filing of a Notice of Appeal and then ignoring responsibilities for prosecuting the appeal through the filing of the record until he was notified by certified mail letter that his abortive appeal had, in fact, been dismissed. [*See* certified mail letter dated August 19, 1992 addressed to Alimadad Jatoi and received by Alimadad Jatoi on August 20, 1992. Appendix F at 21a-28a.]

A proper assessment of Alimadad Jatoi's activities in this case before the Bankruptcy Court, the District Court, the United States Court of Appeals and in this Honorable Court is that he suffers from acute, selective, negative monetary amnesia. Whether considering matters clearly established as fact in records or attempting to recall documented events, Petitioner Alimadad Jatoi simply cannot remember matters that do not absolutely fit his desires and interests. The fees of $41,261 awarded in this case resulted from extensive work in preparation of a case styled *Alimadad Jatoi v. Amega Construction, Inc. and Aetna Insurance*

Company. A reference to that case appears at footnote 4 in the Order of November 16, 1992 signed by Honorable John McBryde, United States District Judge, in this case. In yet another unpublished opinion filed June 30, 1992 involving Alimadad Jatoi styled *In the Matter of Dr. Alimadad Jatoi, et al., Debtors; Aetna Insurance Company, et al., Appellee v. Dr. Alimadad Jatoi, Appellant,* Summary Calendar No. 91-7003 in the Fifth Circuit Court of Appeals, where Jatoi was attempting to overturn a part of an open court settlement of the *Jatoi v. Amega Construction, Inc. and Aetna Insurance Company* case, the Fifth Circuit Court of Appeals observed:

> "Reiteration of the procedural history of this case would serve no useful purpose. It suffices that Jatoi's pettifoggery and abuse of the civil process is facially apparent, or at best thinly disguised, at every turn. We were reluctant to impose sanctions when his prior appeal of the same matter on essentially identical and equally baseless claims was dismissed as frivolous. We shall not, however, repeat our indulgence now. In the face of our dismissal of the first appeal as frivolous, Jatoi has nevertheless repeated the same meritless performance, but even more egregiously and at additional unwarranted cost of time, money and resources to the opposing parties and to the civil justice system as well.
>
> Counsel Cooper attempts to justify his own sanctionable conduct on the basis of his belated entry into the case shortly before Jatoi's appellate brief was due, and on his purportedly limited opportunity to familiarize himself with Jatoi's case. But that excuse rings hollow in

> view of the time that has elapsed since counsel spruced up Jatoi's pro se brief and filed it over his own signature. . . ."

The District Court's familiarity with the case at bar and the activities of litigant Alimadad Jatoi certainly underscore the wisdom of the action of the United States Court of Appeals for the Fifth Circuit in allowing the discretionary ruling of the District Court to stand in this case.

Even then, William C. Meier is listed as a creditor in the recently-filed Chapter 11 proceeding initiated on August 25, 1993. No doubt that will prove an opportunity to present, as Paul Harvey might say, "the rest of the story."

III.

JURISDICTION EXISTED IN THE BANKRUPTCY COURT ON DECEMBER 19, 1989 TO RENDER JUDGMENT.

The Bankruptcy Court retains jurisdiction to address matters involving attorney's fees and costs and other activities in a dismissed Chapter 11 case. *In the Matter of Post v. Ewing,* 119 B.R. 566 (D.C.S.D. Ohio 1989); *In the Matter of Samford, (Willis v. Cruse),* 125 B.R. 230 (D.C.E.D. Mo. 1991).

Clearly, the Bankruptcy Court was dealing with a proceeding in the context of the above *Post v. Ewing* case and *In the Matter of Samford.* The issue was joined on motions to disgorge fees, opposition to a discharge statement and an opposition to the confirmation of a Plan of Reorganization. The subsequent dismissal arranged between the Trustee and Alimadad Jatoi could not act to deprive the court of jurisdiction to enter nunc pro tunc orders on issues resolved by a full hearing and an announced ruling in open court.

CONCLUSION

Accordingly, proper grounds for invoking this Honorable Court's review by writ of certiorari do not exist. A denial of the Petition for Writ of Certiorari will properly close this issue in this case after three (3) years and nine (9) months, and justice will have prevailed. This Honorable Court should deny the Petition for Writ of Certiorari of Alimadad Jatoi.

Respectfully submitted,

WILLIAM C. MEIER
Texas Bar No. 13909000
Counsel of Record
MEIER & PARKER, L.C.
Attorneys for Respondent
Central Park Tower
2350 Airport Freeway, Suite 660
Bedford, Texas 76022
(817) 283-9528

APPENDIX A — MOTION TO ENTER SEPARATE ORDER WITH EXHIBITS

LAW OFFICE OF WILLIAM C. MEIER
& ASSOCIATES
Central Park Tower
2350 Airport Freeway, Suite 660
Bedford, Texas 76022
817/283-9528; metro 540-5295
Fax — 817/545-9042

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CASE NO. 487-42139-11

IN RE:

ALIMADAD JATOI,

DEBTOR

MOTION TO ENTER SEPARATE ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C., and moves this Court for an order granting judgment and for such pleading would respectfully show the Court as follows:

1. By Order signed October 25, 1991, Honorable John McBryde, United States District Judge, sitting as an appellate Judge in this case, signed an Order referring this case to this Honorable Court "for entry of a separate document constituting a final judgment as required by Bankruptcy Rule 9021(a)".

2. That Order resulted from an Opinion of the Fifth Circuit Court of Appeals which mandated that the case on appeal be remanded to the United States District Court for an initial decision on the merits of the cause.

3. The basis of the appeal was a document entitled "Nunc Pro Tunc Order Regarding Attorney's Fees and Expenses" (a copy of which is attached hereto as Exhibit "1"). The Fifth Circuit Court of Appeals Opinion merely determined that a separate judgment should be entered in addition to that Order which Appellant JATOI contended was a fact finding and not a final order.

4. Accordingly, consistent with the mandate of the Fifth Circuit Court of Appeals and the Order of the United States District Court, Movant LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. requests that this Court enter a separate order constituting a separate judgment, consistent with Bankruptcy Rule 9021(a) and Federal Rule of Civil Procedure 58, in the form attached to this Motion.

WHEREFORE, Movant prays that the Court enter its final judgment in this cause.

Respectfully submitted,

s/ William C. Meier
WILLIAM C. MEIER
Texas Bar No. 13909000

Appendix A

LAW OFFICE OF WILLIAM C. MEIER
& ASSOCIATES
Central Park Tower
2350 Airport Freeway, Suite 660
Bedford, Texas 76022
817/283-9528; metro 540-5295
Fax — 817/545-9042

ATTORNEYS FOR LAW OFFICE OF
WILLIAM C. MEIER & ASSOCIATES,
P.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served upon Michael D. Mosher, American Legion Building, 26 Northeast Second Street, Paris, Texas 75460, Attorney for Debtor, by placing same in the United States mail, certified mail, return receipt requested, this 6 day of December, 1991.

s/ William C. Meier
William C. Meier

Appendix A

[EXHIBIT "1"]

[stamped]
ENTERED
JAN 10 1990
United States Bankruptcy Court
Northern District of Texas

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CASE NO. 487-42139-11

IN RE:

ALIMADAD JATOI,

DEBTOR.

NUNC PRO TUNC ORDER
REGARDING ATTORNEY'S FEES AND EXPENSES

On the 19th day of December, 1989, came on to be heard the objection of WILLIAM C. MEIER, of the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C., one of the creditors listed in the Debtor's Disclosure Statement and Plan of Reorganization in the above bankruptcy, and came on to be heard the Debtor, ALIMADAD JATOI, in person and by and through his attorney of record, Joe Abbey, and came on to be heard WILLIAM C. MEIER of the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C., and the Court, upon hearing opening statement of counsel, the stipulations as to evidence and testimony, and argument of counsel, makes the following findings of fact and conclusions of law:

Appendix A

1. The Court finds that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. performed legal services after the date of filing of a bankruptcy petition, and upon the grant of authority and approval of the Court, that legal services were rendered to the Debtor-in-Possession, ALIMADAD JATOI, by the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C., and expenses incurred, which legal services and expenses were the subject of applications for the payment of fees and expenses and which applications for payment of fees and expenses were fully approved by the Court as reasonable in amount and appropriate according to their terms, so that reasonable fees and expenses are due and payable from Debtor-in-Possession, ALIMADAD JATOI, to the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. in the full amount of FOURTEEN THOUSAND NINE HUNDRED SIXTY-TWO AND 07/100 DOLLARS ($14,962.07); and

2. That the attorney's fees and expenses in the amount of FOURTEEN THOUSAND NINE HUNDRED SIXTY-TWO AND 07/100 DOLLARS ($14,962.07) should be properly included as an administrative expense and an administrative claim under the provisions of Section 5.03(b) and/or 5.07(a)(1), (3), (4) or (6) of the Bankruptcy Code, and should have been listed as a Class 1 claim under the Plan of Reorganization filed by the Debtor herein; and

3. The Court further finds that WILLIAM C. MEIER and the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. performed reasonable and necessary legal services to ALIMADAD JATOI and others prior to the time of the filing of the bankruptcy petition, which fees and expenses total the amount of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00); and

4. The Court further finds that WILLIAM C. MEIER was listed as a creditor of Debtor by Debtor ALIMADAD JATOI at the time of the filing of the Chapter 11 bankruptcy, and that the claim of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00) for attorney's fees and expenses has been properly filed as a claim against the Debtor in this proceeding; and

5. The Court further finds that ALIMADAD JATOI agreed to make payment to the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. in the amount of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00) in hourly fees charges for attorney's fees performed prior to the time of the filing of the bankruptcy, and that such charges are reasonable and necessary charges in the litigation styled "*Amega Construction, Inc. v. Dr. Alimadad Jatoi, et al*", currently pending in the United States District Court for the Northern District of Texas; and

6. The Court further finds that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. asserts an attorney's lien against the books, records and papers in its possession securing payment of claims for attorney's fees due and owing by ALIMADAD JATOI and others;

IT IS, ACCORDINGLY, ORDERED, ADJUDGED AND DECREED that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. have and recover judgment against ALIMADAD JATOI for attorney's fees and expenses rendered to him after the filing of a Chapter 11 petition in bankruptcy in the amount of FOURTEEN THOUSAND NINE HUNDRED SIXTY-TWO AND 07/100 ($14,962.07).

Appendix A

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. have and recover from ALIMADAD JATOI reasonable and necessary attorney's fees incurred prior to the filing of the petition in bankruptcy under Chapter 11 in the amount of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any Plan of Reorganization on the part of ALIMADAD JATOI hereafter filed include as administrative fees and expenses the amount of FOURTEEN THOUSAND NINE HUNDRED SIXTY-TWO AND 07/100 ($14,962.07) due and payable to the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any Plan of Reorganization hereafter filed on the part of ALIMADAD JATOI include the amount of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00) as a secured claim on the part of the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C., secured by the books, records and papers in the possession of the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C.

FILED January 10, 1990.

ORDER EFFECTIVE AS OF
12-19-89

ORIGINAL SIGNED BY
MASSIE TILLMAN
UNITED STATES BANKRUPTCY JUDGE

Appendix A

[EXHIBIT "2"]

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CASE NO. 487-42139-11

IN RE:

ALIMADAD JATOI,

DEBTOR

ORDER

Pursuant to findings of fact and conclusions of law included in a document entitled "Nunc Pro Tunc Order Regarding Attorney's Fees and Expenses" filed on January 10, 1990, final judgment is entered in this regard that:

IT IS HEREBY ORDERED that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. have and recover from ALIMADAD JATOI the sum of FOURTEEN THOUSAND NINE HUNDRED SIXTY-TWO AND 07/100 DOLLARS ($14,962.07) for attorney's fees and expenses resulting after the filing of a Chapter 11 Petition in Bankruptcy.

IT IS FURTHER ORDERED that the LAW OFFICE OF WILLIAM C. MEIER & ASSOCIATES, P.C. have and recover from ALIMADAD JATOI the additional amount of FORTY-ONE THOUSAND TWO HUNDRED SIXTY-ONE AND NO/100 DOLLARS ($41,261.00) for attorney's fees and expenses resulting prior to the filing of a Chapter 11 Petition in Bankruptcy.

Appendix A

This Order shall constitute a final judgment as to this portion of Bankruptcy Case NO. 487-42139-11.

SIGNED December __, 1991.

UNITED STATES BANKRUPTCY JUDGE

APPENDIX B — NUNC PRO TUNC ORDER SIGNED DECEMBER 16, 1991

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

[stamped]
ENTERED
DEC 17 1991
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
MICHAEL W. YOUDIN, CLERK

CASE NO. 487-42139-11

IN RE:

ALIMADAD JATOI,

DEBTOR

NUNC PRO TUNC ORDER

On the 19th day of December, 1989, came on for hearing the objection of William C. Meier to the Motion of Debtor to have the attorneys' fees and expenses disgorged. In accordance with the Findings of Fact and Conclusions of Law entered on the 10th day of January, 1990, this court finds that the fees and expenses of William C. Meier should be allowed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that reasonable fees and expenses are due and payable from the Debtor in the amount of $14,962.07.

IT IS FURTHER ORDERED that William C. Meier recover attorneys' fees incurred prior to the filing of the bankruptcy in the amount of $41,261.00.

Appendix B

SIGNED this 16 day of December, 1991.

s/ Massie Tillman
HONORABLE MASSIE TILLMAN
UNITED STATES BANKRUPTCY JUDGE

APPENDIX C — LETTER OF JULY 1, 1992 TO ATTORNEYS MICHAEL D. MOSHER AND WILLIAM C. MEIER FROM UNITED STATES DISTRICT COURT CLERK NANCY DOHERTY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
202 U.S. Courthouse
Fort Worth, Texas 76102

Nancy Doherty
Clerk of Court

July 1, 1992

Michael D. Mosher
26 N.E. 2nd St
Paris, TX 75460

William C. Meier
2350 Airport Freeway Ste 660
Bedford, TX 76022

RE: Alimadad Jatoi vs. William C. Meier
Bankruptcy Number: 487-42139-MT
New Cause Number: 4:92-cv-488 A

Dear Sirs:

Please note that the above referenced case has been appealed to the United States District Court for the Northern District of Texas, Fort Worth Division. The case has been assigned a new civil action number which is 4:92-cv-488 A. All pleadings filed in this case hereafter should be directed to the District Clerk at the above referenced address and should be styled using the new civil action number.

Appendix C

Thank you for your cooperation.

Sincerely,

Nancy Doherty
Clerk of Court

s/ Cherry E. Whatley
Cherry E. Whatley
Deputy District Clerk

RECEIVED
July 2 1992

APPENDIX D — BANKRUPTCY NOTICE

Alimadad Jatoi, 503-54-2236
819 East Highway 190
Copperas Cove, TX 76522

United States Bankruptcy Court
Western District of Texas
600 Austin Ave., Suite 20
Waco, TX 76701

ORDER COMBINED WITH NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, MEETING OF CREDITORS, AND FIXING OF DATES
(individual or Joint Debtor Case)

Case Number: 93-60768 LEK
Date Filed (or Converted): 08/25/93

William C. Meier, Esq.
Central Park Tower
2350 Airport Frwy., Ste 660
Bedford, Texas 76022

IN RE (NAME OF DEBTOR)
Alimadad Jatoi, 503-54-2236

ADDRESS OF DEBTOR
819 East Highway 190
Copperas Cove, TX 76522

ATTORNEY FOR DEBTOR
Pro se

TRUSTEE

Telephone Number:

Telephone Number:

MEETING OF CREDITORS
October 1, 1993 at 10:00 am
St. Charles Place, Suite 20
600 Austin Ave.
Waco, TX 76701

Filing Claims/Interests: Deadline to File a Proof of Claim or Proof of Interest is 12/30/93

Appendix D

Discharge of Debts: Deadline to File a Complaint Objecting to Discharge of the Debtor or to Determine Dischargeability of Certain Types of Debts: 11/30/93

COMMENCEMENT OF CASE. A petition for reorganization under chapter 11 of the Bankruptcy Code has been filed in this court and an order for relief has been entered. All documents filed with the court are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. A creditor who is considering taking action against the debtor or the property of the debtor should review Section 362 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may elect a trustee other than the one named above, elect a committee of creditors, examine the debtor, and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection not later than 30 days after the conclusion of the meeting of creditors.

Appendix D

DISCHARGE OF DEBTS. The debtor is seeking a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes that the debtor should not receive any discharge of debts under Sec. 1141(d) (3)(C) of the Bankruptcy Code, timely action must be taken in the bankruptcy court in accordance with Bankruptcy Rule 4004 (a). If a creditor believes that a debt is not dischargeable under Section 523 (a) (2), (4), or (6) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above labeled "Discharge of Debts."

PROOF OF CLAIM/INTEREST. Schedule of liabilities have been or will be filed pursuant to Bankruptcy Rule 1007. Any creditor or equity security holder holding a scheduled claim which is not listed as disputed, contingent, or unliquidated as to amount may, but is not required to, file a proof of claim or proof of interest in this case. Creditors or equity security holders whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claim or proofs of interest. A creditor or equity security holder who desires to rely on the schedules of creditors has the responsibility for determining that the claim is listed accurately. Any claim or interest filed must be filed by the date set forth above labeled "Filing claims/ Interests". The place to file a proof of claim or proof of interest, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court. Pursuant to Local Rule 3002 (b) a copy with attachments shall be served on the debtor's attorney.

FAILURE OF THE DEBTOR OR HIS ATTORNEY TO APPEAR AT THE SECTION 341 (a) MEETING OR TO TIMELY FILE

Appendix D

SCHEDULES AND STATEMENT OF AFFAIRS MAY RESULT IN DISMISSAL, DENIAL OF THE DEBTOR'S DISCHARGE, OR OTHER APPROPRIATE RELIEF.

For the Court: Lawrence T. Bick
Clerk of the Bankruptcy Court
09/01/93
Date

Form B9ELCB
0011

APPENDIX E — ORDER OF THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION, FILED NOVEMBER 16, 1992

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

[stamped]
U.S. District Court
Northern District of Texas
FILED NOV 16 1992
Nancy Doherty, Clerk
s/ B. Garner mgm

NO. 4:92-CV-488-A

IN RE:

ALIMADAD JATOI,

Debtor.

ALIMADAD JATOI,

Appellant,

VS.

WILLIAM C. MEIER & ASSOCIATES, P.C.,

Appellee.

ORDER

This is an appeal from an order of the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division, the Honorable Massie Tillman presiding. The record on appeal was transmitted to the District Clerk on July 1, 1992, and

the appeal was docketed on July 7, 1992. Consequently, the brief of appellant, Alimadad Jatoi, was due on or before July 22, 1992. Bankr. R. 8009 (a) (1). Because appellant's brief was not timely filed, by memorandum opinion and order and final judgment signed July 27, 1992, the court ordered that the appeal be dismissed.[1] Thereafter, on August 26, 1992, appellant filed his notice of appeal. Consequently, this court no longer has jurisdiction of this action. *See, e.g., Venen v. Sweet,* 758 F.2d 117, 120 (3rd Cir. 1985); *G & M, Inc. v. Newbern,* 488 F.2d 742, 746 (9th Cir. 1973).

Now pending is an agreed motion[2] filed September 29, 1992, for reinstatement of appeal.[3] The court would not be inclined to grant the motion because it is familiar with the history of this appeal and tends to believe that the appeal is frivolous.[4] The court

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1. The court is aware that a person purporting to be an attorney (or a member of an attorney's staff) acting on behalf of appellant contacted the District Clerk's office prior to the time appellant's brief was due to inquire about the status of the action and to determine the date upon which the appeal was docketed. The caller was advised at least twice of the date the appeal was docketed. Instead of filing an appropriate motion for extension of time to file an appellate brief, appellant's attorney apparently chose not to take any further action.

2. The motion does not reflect that all facts, including those set forth in footnote 1, *supra,* were disclosed to appellee, William C. Meier & Associates, P.C., at the time it was induced not to oppose the motion to reinstate appeal.

3. The court notes that, even if timely filed, this is not a motion of the kind described in Fed. R. App. P. 4 (a) (4) that would nullify the effect of the notice of appeal.

4. The court bases its opinion on the facts of this case and not on the behavior of appellant in other cases, such as the case wherein the Fifth Circuit has sanctioned appellant for his activities.

understands that a motion pursuant to Fed. R. Civ. P. 60 (b) may be denied without leave of the appellate court. *See Venen,* 758 F.2d at 123. Nevertheless, during a telephone conference hearing on November 10, 1992,[5] appellee expressed the desire that the appeal be decided on its merits notwithstanding the history of the action. The court does not have jurisdiction to grant the motion and to reinstate the appeal without leave of the appellate court. *Id.* Therefore,

The court ORDERS that the agreed motion for reinstatement of appeal be, and is hereby, held in abeyance pending some action by appellant to cause the action to be remanded to this court or to cause the appeal to be reinstated.

SIGNED November 16, 1992.

s/ John McBryde
JOHN McBRYDE
United States District Judge

---

5. Appellant, Alimadad Jatoi, and appellee, William C. Meier and Associates, P.C., appeared via telephone by and through their attorneys of record. The proceeding was recorded by the court reporter.

APPENDIX F — LETTER OF AUGUST 19, 1992 FROM WILLIAM C. MEIER TO DR. ALIMADAD JATOI WITH ATTACHMENTS

MEIER & PARKER, L.C.
ATTORNEYS AND COUNSELORS AT LAW
Central Park Tower
2350 Airport Freeway, Suite 660
Bedford, Texas 76022

817/283-9528
Metro 817/540-5295

William C. Meier
D. Brad Clinkenbeard
(Licensed in Louisiana only)

August 19, 1992

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Dr. Alimadad Jatoi
2520 Harwood Road
Suite 400, Box 8
Bedford, Texas 76021

Dear Dr. Jatoi:

Enclosed are the following:

1. Letter dated July 1, 1992 from Cherry E. Whatley noting the appeal of the order entered by Judge Massie Tillman in the Bankruptcy Court on December 16, 1991 was docketed as Cause No. 4:92-CV-488-A;

Appendix F

2. Memorandum Opinion and Order signed by Judge John McBryde on July 27, 1992;

3. Final Judgment of Dismissal signed by Judge McBryde on July 27, 1992.

These items are being sent to you consistent with the form entitled "Consent to Motion to Withdraw as Attorney for Appellant" dated February 18, 1992 and signed by you.

Sincerely,

s/ William C. Meier
William C. Meier

WCM/cpn
Encl.

Appendix F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
202 U.S. Courthouse
Fort Worth, Texas 76102

Nancy Doherty
Clerk of Court

July 1, 1992

Michael D. Mosher
26 N.E. 2nd St
Paris, TX 75460

William C. Meier
2350 Airport Freeway Ste 660
Bedford, TX 76022

RE: Alimadad Jatoi vs. William C. Meier
Bankruptcy Number: 487-42139-MT
New Cause Number: 4:92-cv-488 A

Dear Sirs:

Please note that the above referenced case has been appealed to the United States District Court for the Northern District of Texas, Fort Worth Division. The case has been assigned a new civil action number which is 4:92-cv-488 A. All pleadings filed in this case hereafter should be directed to the District Clerk at the above referenced address and should be styled using the new civil action number.

Thank you for your cooperation.

Sincerely,

Nancy Doherty
Clerk of Court

s/ Cherry E. Whatley
Cherry E. Whatley
Deputy District Clerk

RECEIVED
July 2, 1992

Appendix F

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

[stamped]
U.S. District Court
Northern District of Texas
FILED
JUL 27 1992
Nancy Doherty, Clerk
By: s/BG, Deputy

NO. 4:92-CV-488-A

IN RE:

ALIMADAD JATOI,

Debtor

ALIMADAD JATOI,

Appellant,

vs.

WILLIAM C. MEIER,

Appellee.

MEMORANDUM OPINION
AND
ORDER

Appendix F

Came on for consideration the above-styled and numbered action. This appeal was docketed in this court on July 7, 1992. Appellant's brief on appeal was due fifteen days thereafter. Bankr. R. 8009. The record on appeal reflects that appellant has failed to file his brief as required. Accordingly, the court finds that the above-styled and numbered action should be dismissed. *International Brotherhood of Teamsters v. Braniff Airways, Inc.* (In re Braniff Airways, Inc.), 774 F.2d 1303, 1305 (5th Cir. 1985). Therefore,

The court ORDERS that the above-styled and numbered action be, and is hereby, dismissed.

SIGNED July 27, 1992.

s/ John McBryde
JOHN McBRYDE
United States District Judge

Appendix F

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

[stamped]
U.S. District Court
Northern District of Texas
FILED
JUL 27 1992
Nancy Doherty, Clerk
By: s/BG, Deputy

NO. 4:92-CV-488-A

IN RE:

ALIMADAD JATOI,

Debtor

ALIMADAD JATOI,

Appellant,

vs.

WILLIAM C. MEIER,

Appellee.

FINAL JUDGMENT OF DISMISSAL

Appendix F

In accordance with the court's memorandum opinion and order of even date herewith,

The court ORDERS, ADJUDGES, and DECREES that the above-styled and numbered action be, and is hereby, dismissed. The court further ORDERS, ADJUDGES and DECREES that appellant, Alimadad Jatoi, bear all costs of court with regard to this appeal.

SIGNED July 27, 1992.

s/ John McBryde
JOHN McBRYDE
United States District Judge

Appendix F

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery
Consult postmaster for fee.

3. Article Addressed to:
Dr Ahmadad Qatai
2520 Harwood Road
Suite 400, Bay 8
Bedford, Texas 76021

4a. Article Number
P 397 190 918

4b. Service Type
☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery
8-20-92

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

PS Form 3811, October 1990 *U.S. GPO: 1990—273-861 DOMESTIC RETURN RECEIPT

BEST AVAILABLE COPY

Appendix F

P 357 190 918

Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	Dr Alimadad Jata
Street and No.	2520 Harwood Road
P.O., State and ZIP Code	Suite 420, Box 8
Postage	Bedford, Texas 7602
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	$
Postmark or Date	8/19/92

PS Form 3800, June 1991